



Bureau of Insurance

DENTAL PLAN ORGANIZATIONS CHAPTER 61 OF TITLE 38.2 OF THE CODE OF VIRGINIA

REQUIREMENTS FOR ORGANIZING AND LICENSING IN VIRGINIA

No person shall establish or operate a dental plan organization in this Commonwealth without first obtaining a license from the Bureau of Insurance (Bureau). To be considered for a license, an applicant must submit a completed *Application for Initial License as a Dental Plan Organization* to the Bureau's Financial Regulation Division pursuant to [Chapter 61 \(§ 38.2-6100 et seq.\) of Title 38.2 of the Code of Virginia](#) (*Dental Plan Organizations*). Prospective applicants should contact the Bureau about their intention to establish a dental plan organization in Virginia. By doing so, the applicant will have the opportunity to submit a more thorough and acceptable application.

The following definitions may prove useful in reviewing these requirements:

"Dental plan" means a contractual arrangement for dental services provided or arranged for, that pays benefits or is administered on an individual or group basis. A dental plan includes, but is not limited to, an arrangement where fixed indemnity benefits are paid to an individual or provider for dental services.

"Dental plan organization" means a company that provides directly or arranges for a dental plan.

Any business entity, which is not an individual or sole proprietorship, may apply for a license to operate a Dental Plan Organization pursuant to [§ 38.2-6102](#) of the Code of Virginia. A "prepaid dental services plan" organized under [Chapter 45](#) (§ 38.2-4500 et seq.), a "health maintenance organization" or "limited health care services plan" licensed to provide dental services under [Chapter 43](#) (§ 38.2-4300 et seq.), any "health service plan" licensed under [Chapter 42](#) (§ 38.2-4200 et seq.), or any "insurer" whose activities are regulated under other provisions of [Title 38.2](#), **cannot conduct the business of a dental plan organization.**

LICENSE REQUIREMENTS

1. Each license application, along with the required attachments, must be accompanied by a nonrefundable application fee of \$500 payable to the Treasurer of Virginia ([§ 38.2-6103 A of the Code of Virginia](#)).
2. If the applicant intends to operate as a **Virginia-domestic business entity**, it must secure the proper certification from the Clerk's Office of the State Corporation Commission (Clerk's Office). If the applicant is a **foreign business entity**, it must secure the proper Certificate of Authority from the Clerk's Office. These certifications are in addition to the license received from the Bureau. Foreign business entities may file with the Clerk's Office during the tentative approval stage of the application. Applicants may contact the Clerk's Office at (804) 371-9733, or the web site at www.state.va.us/scc/division/clk, for instructions on filing.

Send the application and license fee to:

**Company Licensing and Regulatory Compliance Section
Virginia Bureau of Insurance
P. O. Box 1157
Richmond, VA 23218**



STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

APPLICATION FOR INITIAL LICENSE AS A DENTAL PLAN ORGANIZATION
Chapter 61 of Title 38.2 of the Code of Virginia

(Please read these instructions completely before filing an application.)
(All citations to the insurance statutes of Virginia are in Title 38.2 of the Code of Virginia.)

Section I. Initial Review Documents and Disclosure

In its initial application, an applicant for a license as a dental plan organization must submit or disclose the following:

1. Non-refundable Application Fee of \$500.00
2. Name of Applicant _____
3. DBA/Trade, Assumed or Fictitious Name (if applicable) _____
4. Street Address of Applicant _____

5. Mailing Address _____

6. Internet Website Address _____

7. Organizational Structure (Date of Incorporation/Formation _____)
____ Corporation ____ Limited Liability Company ____ Partnership
____ Other: Identify/Explain _____
8. State of Domicile _____
9. Federal Employer Identification Number _____
10. National Association of Insurance Commissioners Number (if applicable) _____
11. Contact Person _____
Title _____
Telephone _____
Fax Number _____
Email _____
12. If the applicant is a Virginia-domiciled entity, provide a copy of the applicable certificate received from the Clerk's Office.
- If the applicant is a foreign-domiciled entity, provide: (a) the state of domicile, and (b) a copy of the Certificate of Incorporation from the home state. If the applicant has filed with the Clerk's Office, provide a copy of the Certificate of Authority.
13. Provide a copy of the basic organizational documents including, but not limited to, the articles of Incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments to those documents.
14. Submit a copy of the by-law, rules, and regulations or any similar document regulating the conduct of the internal affairs of the applicant.
15. If the applicant is a member of a holding company system, submit an organizational chart which depicts the affiliate relationships among the members. As used herein, "affiliate" means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the member specified. "Control" shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively 10% or more of the voting securities of any other person.

16. List the name, address, and official position of each member of the governing body and any person with authority to manage or establish policy.

<u>Name</u>	<u>Official Position</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

For each individual, provide an NAIC Biographical Affidavit. The Biographical Affidavit must be certified by an independent third party that has conducted a comprehensive review of the applicant's background and has certified that the Biographical Affidavit has no inaccurate or conflicting information and no material omissions. NAIC Biographical Affidavits must be current and shall not be signed by the affiant more than one year prior to the date the application is filed. The form can be accessed through the Company Licensing Procedures section of the BOI website.

17. Present a full disclosure of any financial interest between any dentist, organization, or corporation owned or controlled by such person and the dental plan organization. The statement should include the extent and nature of the financial arrangements between such person and the dental plan organization.
18. Submit a copy of any contracts made or to be made between any dentist, sponsor, or organizer of the dental plan organization or any member of the governing body. Provider Contracts submitted are subject to all of the provisions of [§ 38.2-6108](#).
19. Submit a copy of the evidence of coverage form to be issued to subscribers and the dental benefit contract to be issued to contract holders. Dental benefit contracts are subject to all of the provisions of [§ 38.2-6105](#).
20. Submit a copy of any group contract form that is to be issued to employers, unions, trustees, or other organizations. All group contracts shall set forth the right of subscribers to convert their coverages to an individual contract issued by the dental plan organization. In addition, include a copy of any other pertinent forms to be issued to subscribers, enrollees, or members, including but not limited to applications, enrollment forms, handbooks, provider lists, and explanations of service areas.

21. Applicants that are domiciled in Virginia need to provide the following items:

- a. The most recent financial statements that include a balance sheet, income statement, reconciliation of capital and surplus and a cash flow statement. Applicants should use the NAIC Health Organization Annual Statement Blank, if available. The financial statements must be attested to and signed by two principal officers and notarized.

The total capital and surplus reported on the financial statements should equal or exceed the statutory minimum capital and surplus requirement. A licensed dental plan organization shall at all times maintain minimum capital and surplus of the greater of \$750,000 or 45 days of anticipated operating expenses and incurred claims pursuant to [§ 38.2-6103 A 2 e.](#)

- b. A copy of the most recent audited financial reports certified by an independent certified public accountant.

22. Applicants that are domiciled outside of the Commonwealth of Virginia need to provide the following items:

- a. Annual statements prepared using the NAIC Health Organization blank, for the latest two years preceding the date of application. The most recent year should have original signatures but certified copies may be furnished for prior years. All Annual Statements are to be prepared in accordance with the Health Organization Quarterly and Annual Statement Instructions and the Accounting Practices and Procedures Manual adopted by the NAIC:

- i. Annual Statements must contain the opinion of a qualified actuary regarding the adequacy of loss reserves and any other actuarial items.
- ii. The "Management's Discussion and Analysis" should accompany the latest Annual Statement, disclosing information on the insurer's financial position, results of operations, changes in capital and surplus accounts, and cash flow.

The total capital and surplus reported on the financial statements should equal or exceed the statutory minimum capital and surplus requirement. A licensed dental plan organization shall at all times maintain minimum capital and surplus of the greater of \$750,000 or 45 days of anticipated operating expenses and incurred claims pursuant to [§ 38.2-6103 A 2 e.](#)

- b. A copy of the Annual Statement of any parent or subsidiary insurer not currently licensed in Virginia for the year-end immediately preceding the submission of the application.
- c. Health organization quarterly statements of the applicant, prepared in accordance with accounting practices and procedures adopted by the NAIC. Applications received after May 15th must include a properly executed first

quarter statement signed in the original by the appropriate company officers; applications received after August 15th must include a properly executed and signed second quarter statement; applications received after November 15th must include a properly executed and signed third quarter statement.

- d. Full Report of Examination made by the state of incorporation, certified by the commissioner of insurance of that state. Organizational examinations may be accepted for newly formed insurers. **Three year rule:** The balance sheet date of the report must be no more than three years prior to the date of the most recent annual statement. The report must be relevant to the company's current management and method of operation.
 - e. Copies of audited financial reports for the two complete fiscal years immediately proceeding the date of application, certified by an independent certified public accountant. Include copies of any management letters with recommendations prepared by the independent certified public accountants.
 - f. A copy of the most recently filed holding company registration statement with all amendments as filed with the domiciliary state's insurance commissioner, director or superintendent or with such regulatory official of the state of domicile of the principal insurer in the applicant's holding company system, if applicable.
 - g. Latest annual report and/or Form 10K of the applicant company, its parent company, or the company having ultimate control over the applicant, whichever is applicable.
 - h. A description of all material litigation involving the company which is currently pending or was concluded during the last three years, including fines or administrative procedures against the company by any state or federal agency.
 - i. A current Certificate of Compliance executed by the insurance department of the state of incorporation.
 - j. A list of states in which the applicant is not licensed but has an application pending.
 - k. If a license has been refused or denied by any jurisdiction, an explanation along with a copy of the refusal or denial letter/document.
23. Submit a complete description of the dental plan organization and its method of operation including (i) the method of marketing the plan (ii) a statement regarding the sources of working capital as well as any other sources of funding, and (iii) a description of any insurance, reinsurance, or alternative coverage arrangements proposed, including excess insurance or stop loss insurance.

24. Submit a financial feasibility plan that includes, but is not limited to, (i) detailed enrollment projections, (ii) the methodology for determining premium rates to be charged during at least the first three years of operations and extending one year beyond the anticipated break-even point certified by an actuary, and (iii) projections, along with material assumptions, of balance sheets, cash flow statements showing capital expenditures and purchase and sale of investments, and income statements on a quarterly basis for at least three years and extending one year beyond the anticipated break-even points. Material critical assumptions should include, enrollment levels, premium rates, provider reimbursement, utilization rates, risk-sharing arrangements with providers, general and administrative expenses, excess and other insurance expenses and recoveries, coordination of benefits, costs of long-term financing, and inflation.
25. If the dental plan organization plans to operate a managed care health insurance plan (MCHIP) in accordance with [Chapter 58 of Title 38.2](#), document compliance with the provisions of Chapter 58 by submitting items required by the attached addendum pertaining to the establishment of a MCHIP. Provider contracts will be subject to the provisions of [§ 38.2-5805](#).
26. Provide a written commitment by the company expressing a willingness to surrender voluntarily its Virginia license if the company does not commence direct writings in the Commonwealth of Virginia within six months after licensure. The commitment must be signed by at least one principal corporate officer, such as the president, that is empowered to make such a commitment by the company's bylaws and/or articles of incorporation.

NOTARIAL ACKNOWLEDGMENT REQUIRED OF ALL APPLICANTS

Dated and signed this _____ day of _____, 20____ at _____, _____ being duly sworn according to law, deposes and says that the answers to the questions and the declarations contained in this application are true and correct.

Signature of the President/CEO
of the Dental Plan Organization

Full Legal Name of the Applicant
(Type or Print)

State of _____

City/County of _____

Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 20____.

(SEAL)

Notary Public

My Commission Expires: _____

It is the intent of the Bureau to process all applications in a timely manner. When necessary, the Bureau will contact the applicant regarding the need for any additional information in order to continue and complete the review process. Failure by the applicant to respond adequately to requests for such additional information within a reasonable timeframe, or failure to demonstrate compliance with the licensing standards prescribed by law, will be grounds for denial of the application, subject to the applicant's right to demand a hearing before the Commission.

If the Bureau of Insurance determines that an application meets the requirements of [Chapter 61](#) of Title 38.2, the Bureau of Insurance will issue a letter of **tentative approval** directing the applicant to complete the remaining requirements for licensure in **Section II** below.

Section II. Tentative Approval

During the second stage of review, the following documents will need to be submitted along with any other items requested by the licensing examiner, within sixty (60) days of the date of the letter of tentative approval:

1. The applicant will be requested to make a deposit of not less than \$50,000 with the financial institution designated by the Treasurer of Virginia as custodian for deposits as required by [§ 38.2-6103 A 2 d](#).
2. The company will be required to file an Estimated Premium License Tax Report, along with the payment of the appropriate tax, pursuant to [§ 58.1-2505 of the Code of Virginia](#) with the Company Licensing Section of the Bureau of Insurance. The report form will be provided with the tentative approval letter.
3. *For non-Virginia domiciled applicants that are organized as corporations, limited liability companies, or partnerships:* The applicant must make appropriate filings with the Clerk of the Commission to (i) properly record its existence in accordance with the Code of Virginia, and (ii) designate a resident of Virginia as agent for service of process. For filing instructions and forms, the applicant may contact the Clerk of the Commission at www.state.va.us/scc/division/clk/index.htm or at (804) 371-9733.
4. *For non-Virginia domiciled applicants that are not organized as corporations, limited liability companies or partnerships:* The applicant must record its existence to the extent required by appropriate governing statutes of Virginia and designate a resident of Virginia as agent for service of process. The applicant must provide evidence to the Bureau that such existence has been properly registered.

The Bureau will issue a license to an applicant once it determines that the applicant has complied with the requirements of Section II and all other licensing standards provided by [§ 38.2-6103](#). [NOTE: Failure to complete the above within the sixty (60) day deadline may result in a denial of the application.]

APPLICATION ADDENDUM FOR
ESTABLISHMENT OF A MANAGED CARE HEALTH INSURANCE PLAN (MCHIP)

No person shall operate a MCHIP in Virginia unless the health carrier responsible for the plan is licensed in accordance with provisions of [Title 38.2](#) of the Code of Virginia as an insurance company, a health maintenance organization, a dental plan organization or a nonstock corporation organized in accordance with provisions in [Chapter 42](#) or [Chapter 45](#). To establish a MCHIP, the health carrier, when applying for initial license, shall provide the items detailed below. All items listed must be addressed in an orderly and thorough manner. Please submit the information in notebook format, referencing each specific section of your submission to an item below.

- A. State the complete legal name, NAIC number (if any), address, and telephone number of the health carrier.
- B. Identify the type of license issued or for which application is being made.
- C. Describe and categorize the transactions and operations of the MCHIP that influence the cost or level of health care services between the health carrier and one or more providers with respect to the delivery of health care services through the MCHIP. Include:
 - (i) A general description of operations.
 - (ii) A description of the arrangements that the health carrier has with providers with respect to the delivery of health care services. If more than one type of arrangement is used or contemplated, types of arrangements should be categorized with reference to distinguishing features. The applicant shall specify also the extent to which different types of arrangements shall be used or relied upon in the conduct of the health carrier's business.
 - (iii) Descriptions of all provider incentive arrangements. Describe both compensation methodology and the nature of the incentive.
- D. Submit a copy of the health carrier's request for its initial certification of quality assurance filed with the Department of Health. Quality of health care services, including access to care, shall be assessed by the Department of Health in accordance with provisions in [Article 1.1 \(§ 32.1–137.1 et seq.\) of Chapter 5 of Title 32.1 of the Code of Virginia](#) concerning quality assurance.

- E. Briefly describe and categorize all contracts made with health care providers enabling the health carrier to provide health care services through its MCHIP to covered persons and attach representative forms of contracts. Incorporate by reference any contracts previously submitted to the Bureau. Individual provider contracts that conform to submitted forms, and contracts with persons outside this Commonwealth need not be filed unless requested by the Commission.
- F. Submit a description of the MCHIP's complaint system. The complaint system must comply with [§ 38.2-5804](#) by providing, among other things, reasonable procedures for resolution of written complaints.
- G. Submit a list of the current providers who have contracted with the health carrier directly or indirectly through an intermediary organization, for the purpose of providing health care services. For each provider include both name and locality and in addition, identify by reference to contract forms submitted at Item E the type of contract under which healthcare services are to be delivered.
- H. Attest to the following:

We wish to operate a Managed Care Health Insurance Plan under the laws and regulations of the Commonwealth of Virginia. We have to the best of our knowledge, given thorough and true replies to the requests for information made above. We understand that the Bureau of Insurance may request additional information and we stand ready to comply in a timely fashion with any request it might make.

(Date)

(Health Carrier)

By:_____
(Signature of appropriate person)

(Title)

NOTE: MCHIPs are subject to regulation in this Commonwealth by both the State Corporation Commission Bureau of Insurance pursuant to [Title 38.2](#) and the Virginia Department of Health pursuant to [Title 32.1](#). Certain information may be required to be filed in duplicate with the Virginia Department of Health.